

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 779 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

LAXMANBHAI GANESHBHAI

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioners

MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/06/2000

ORAL JUDGEMENT

Petitioner No. 1-Laxmanbhai Ganeshbhai was a daily wager employed in the Public Works Department of the State Government. The petitioner was initially appointed in the year 1962. The petitioner, therefore, prayed that he may be made permanent and be given the benefits of the regular pay scale and may also be given the benefits available to the regular Government servants. The petition was filed in February, 1988 and came to be admitted in February, 1991. The ad-interim relief granted at the time of admission of the petition

was that the services of the petitioners shall not be terminated save and except in accordance with law. It appears that the petition was not confined to Laxmanbhai only as the petition was also filed by Laxmanbhai Ganeshbhai and Gujarat Rajya Ardhasarkari Audhyogik Karmachari Sangh, a union representing the case of five other persons as well who were also appointed between 1958 and 1979 and whose names are mentioned in Annexure "A" to the petition.

2. There is no affidavit in reply. However, Mr KT Dave, learned AGP appearing for the respondents relying on the letter dated 12.6.1997 from the Deputy Executive Engineer, R&B Sub Division, Kheda to the Government Solicitors, has stated that during pendency of this petition, the Government has issued resolution dated 17.10.1988 granting benefits to a large number of daily wager employees depending on the length of service put in by them. Mr Dave has further stated that petitioner No.1-Laxmanbhai expired on 14.1.1990 and that the Government has sanctioned the payment of all the benefits under the Government Resolution dated 17.10.1988 as per the Office Order dated 5.3.1990. The family pension has also been sanctioned for his widow, but on account of her remarriage, the pension and gratuity are not being paid to her. Mr Dave further states that Kalubhai Ganeshbhai, elder brother of deceased Laxmanbhai Ganeshbhai has submitted letter dated 15.6.1993 and 17.1.1995 that he may be treated as the legal guardian of the minor children of deceased Laxmanbhai Ganeshbhai. However, the Accounts Officer had not accepted the said application and raised certain objections on 24.11.1995 and 10.1.1996, but Kalubhai Ganeshbhai has not responded to the said communications.

4. In view of the aforesaid, as far as petitioner No. 1 is concerned, though technically the petition has abated for petitioner No. 1, Mr KT Dave, learned AGP for the respondents has fairly stated that as and when the heirs of deceased Laxmanbhai Ganeshbhai comply with the necessary formalities, the arrears of family pension and gratuity will be paid over to them.

5. As far as the other persons, whose names are mentioned in Annexure "A" to the petition, viz. Kalubhai Jevarbhai, Revaben Bhikhabhai, Chhaganbhai Somabhai, Suleman Sundarbhai and Gotabhai Punjabhai, are concerned, Mr Dave has no instructions in the matter probably because the names mentioned in Annexure "A" to the petition are not petitioners as such. Now there is no dispute about the fact that the Government has vide its

resolution dated 17.10.1988 conferred benefits on daily wagers. It is, therefore, directed that if such benefits are not given to the above mentioned 5 persons by now, the same shall be given to them as expeditiously as possible and in any case within two months from the date of receipt of a certified copy of this order or the writ of this Court, whichever is earlier.

6. The petition is accordingly disposed of in terms of the aforesaid directions.

Rule is made partly absolute. There shall be no order as to costs.

Liberty to apply in case of difficulty.

June 16, 20000 (M.S. Shah, J.)

sundar/-